

REMARKS

The Office Action mailed February 7, 2005 has been received, its contents carefully noted, and the applied citations thoroughly studied. Accordingly, the foregoing revisions to the claims are tendered with the conviction that patentable contrast has now been made manifest over the known prior art. All rejections tendered by the Examiner in the above-referenced Office Action are hereby respectfully traversed and reconsideration is respectfully requested.

It is believed that the foregoing revisions to the claims are within the metes and bounds of the recently articulated Supreme Court *Festo* case, in that all equivalents susceptible to capture have been retained in that one skilled in the art, at the time of this Amendment, could not have reasonably been expected to have drafted a claim that would have literally encompassed any other equivalent.

Double Patenting

The Examiner has provisionally rejected Claims 11-18 under the judicially created doctrine of double patenting over Claims 1 through 15 of copending Application No. 09/430,390 (now U.S. Patent No. 6,695,290). Appended hereto is a terminal disclaimer submitted in compliance with 37 CFR 1.321(c) with respect to copending application no. 09/430,390 (now U.S. Patent No. 6,695,290), which has identical inventorship and identical ownership to this application. The terminal disclaimer resolves the Examiner's double patenting concerns, and correspondingly overcomes the Examiner's provisional rejection of Claims 11-18.

Accordingly, Applicant requests that the provisional rejection be withdrawn and that Claims 11-18 be allowed, and that this application proceed to issuance.

Rejections Under 35 U.S.C. § 112

The Examiner has rejected Claims 11-17 under 35 U.S.C. section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. According to the Examiner, Claim 11 claims a combination with a standard but there is no structure limiting the standard so the Claim is unclear.

The specification supports these claims. Specifically, Figure 3 depicts the standard (in phantom), and correspondingly the specification discloses that "[t]he standard S fixes the accessory 10 thereon by means of the pin 42 discussed above Cranking the handle H can pull the chain C in the direction of the arrow A with the standard S firmly held by the accessory 10." (Specification pp. 12-13). With respect to Figure 4, the specification further discloses that "[t]he chain C includes one link received in the chain lock 14. The handle H, when manipulated, will cause the standard to move in the direction of the arrow A moving the accessory 10 therewith since it is locked onto the standard." (Specification p. 13). With respect to Figure 6, the specification discloses further that "[t]he accessory 10 is fixed on the standard as explained above with the flattened spikes 30 engaging the ground. Where the surfaces is yielding, the spike will provide an increased grip as a downward force F is exerted. The penetration of the spikes 30 into the ground provides a more stable contact with the ground." (Specification p. 13). The specification discloses further that Figure 7 illustrates "[a]n embodiment in which the accessory 10 is fixed on the standard S and the jack handle H is manipulated to provide a force F on an object interposed between the nose N of the ratcheting mechanism and the teeth 22 of the accessory 10." (Specification p. 13).

Moreover, it is respectfully noted that Claim 14 of the prior patent issued to Applicant, U.S. Patent No. 6,695,290, includes an elongate, perforated standard. Specifically, Claim 14 claims:

A lifting jack accessory in which the lifting jack includes an elongate, perforated standard, a ratcheting mechanism overlying the standard, the ratcheting mechanism including a load engaging nose operatively coupled to a ratcheting handle, said accessory comprising, in combination:

a sleeve having first and second ends and an adjunct projecting from a side of said sleeve including means for engaging other objects therewith, wherein said sleeve overlies the standard, and wherein said sleeve includes a pair of holes through which a pin is removeably attached, said pin passing through the standard.

The structure limiting the standard with respect to this Claim was apparently clear to the Examiner during prosecution, as the Examiner did not question the meaning or scope of the term standard at that time. The structure limiting the standard with respect to Claim 14 above is equivalent to the structure limiting the standard in the pending application.

Rejections Under 35 U.S.C. § 102

The Examiner has rejected Claims 11-12 and 16-17 under 35 U.S.C. 102(b) as being anticipated by Lewis (4616970). The Examiner has also rejected Claims 11-13 and 16 under 35 U.S.C. 1-2(a) as being anticipated by Akrep (6102351). It is believed that the Examiner's rejections are rendered moot in light of the claims as amended. Amended Claim 11 makes clear the manner in which the present invention differs from the cited prior art, and additionally addresses the Examiner's particular concerns as articulated in the February 2, 2005 Office Action.

Conclusion

In view of the foregoing, it is respectfully requested that the Examiner pass this case to issue. If, upon further consideration, the Examiner believes further issues remain outstanding or new ones have been generated, the undersigned respectfully requests that the Examiner call the undersigned to resolve the same expeditiously.

Respectfully submitted,

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